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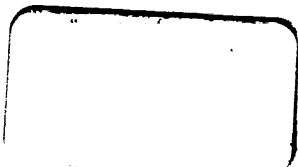
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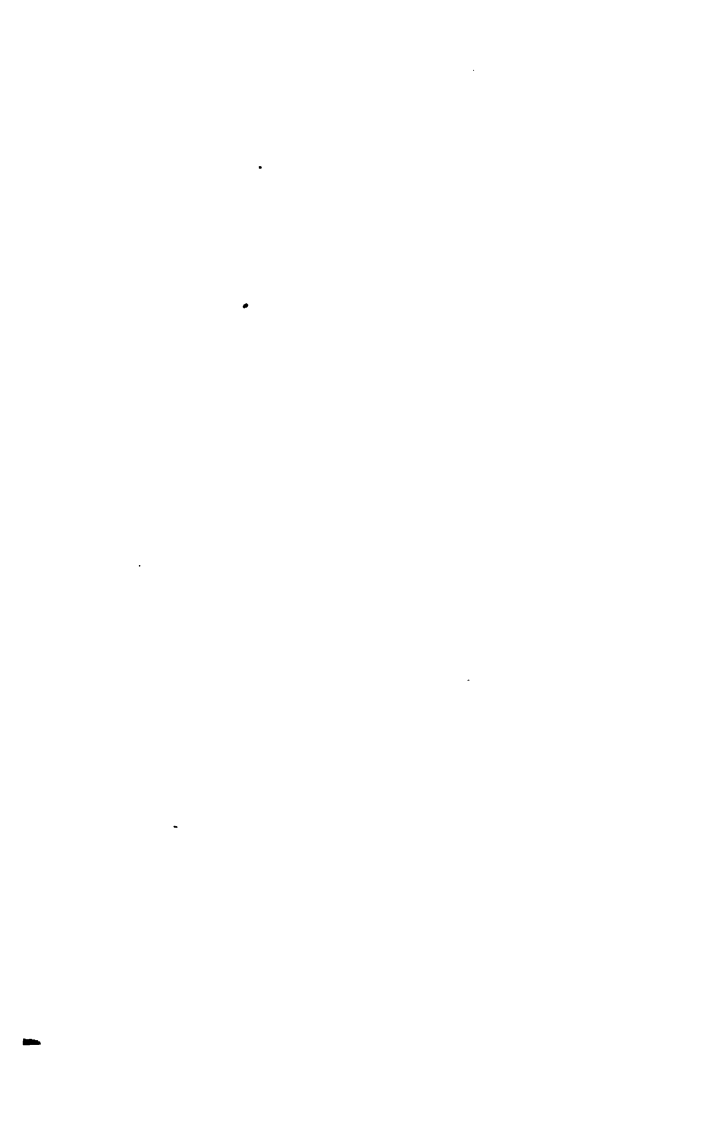
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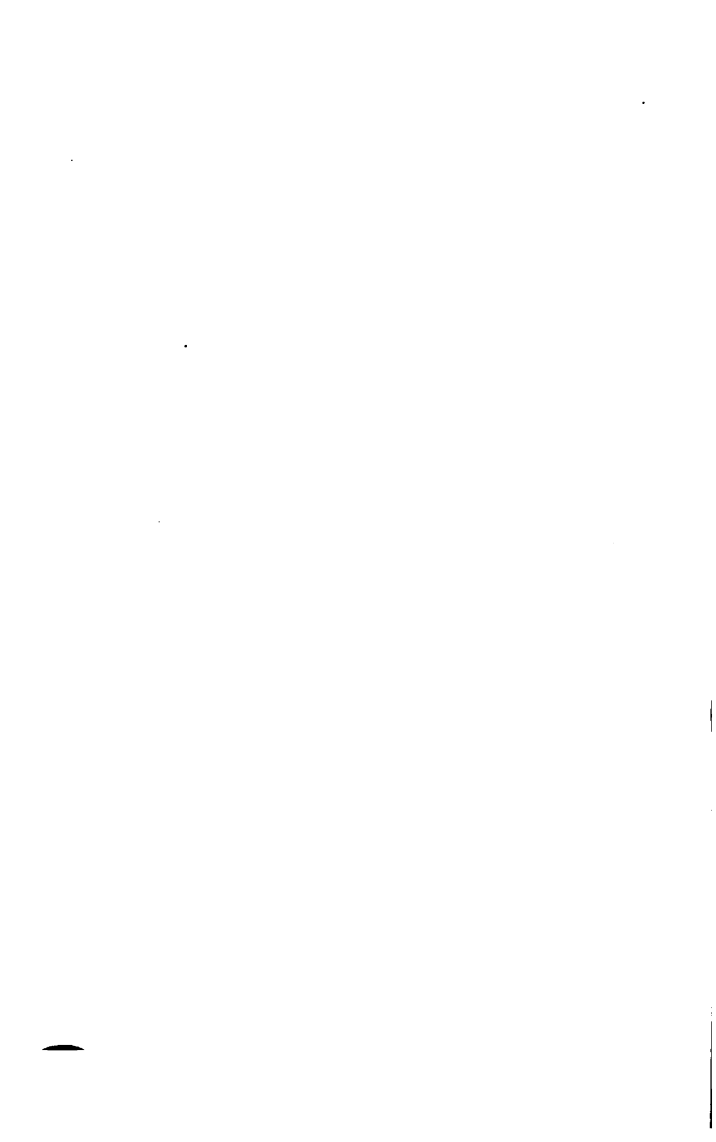
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**THE**  
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THE  
CONSTITUTION  
OF  
THE GOVERNMENT  
OF  
NEWFOUNDLAND,

IN ITS LEGISLATIVE AND EXECUTIVE DEPARTMENTS.

WITH

AN APPENDIX,

CONTAINING

THE RULES AND ORDERS OF THE  
LEGISLATIVE COUNCIL.

AND

THE HOUSE OF ASSEMBLY.

BY

JOHN LITTLE, Esq.,

BARRISTER-AT-LAW.

---

STEAM PRESS OF HASZARD & OWEN.

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## PREFACE.

At no period of the political history of Newfoundland was an acquaintance with its Constitution more necessary than at present.

The British Government has, at last, conceded Responsible Government to this Island, and its Local Legislature has recently made important changes in the Laws affecting the Representation of the people in the Legislative Assembly. They are now called upon by those Laws to give vitality to that Constitution, and to discharge the heavy responsibilities of Self-Government.

Every one in the colony is interested in the proper working of that system; and therefore ought in some degree, to be acquainted with its principles: without some knowledge of which, he exposes himself to the censure and inconvenience of living in society without understanding his own political relation to it.

All the Dependencies of the British Crown, now in the full enjoyment of Responsible Government, can not but value it as being the root and source of Colonial Freedom, and the main-spring of their prosperity; and therefore they must admire it more and more in proportion as they view and comprehend the latent agencies which regulate its movements.

The author disclaims all pretensions to originality in the following pages. He professes only to have compiled and condensed the same from such public records and other reliable sources of reference as are not immediately within the reach of the general reader,—and he trusts that this compilation will, in some measure, make up for the absence of a more elaborate and complete treatise on this important subject.



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## CHAPTER I.

### THE FORM OF GOVERNMENT.

§ 1. It appears to have been at all times a part of the Prerogative of the English Crown to establish in the Colonies, and in conquered and ceded Territories, such Governments as the Monarch found expedient; and the British Parliament has seldom interfered, and never took upon itself the exercise of this branch of authority, unless specially requested by the Executive, with the exception of that period of English history in which a republican form subsisted for a few years. This extensive power is indeed found to have been modified in its use by several causes—the general interests of the British nation—the rights of the Colonists—and the concessions made to them by the Parent Government, have had their due weight in shaping the regulations and orders of the Crown, in the management of the Colonies.

From these causes, forms of Government have arisen, in most instances in which the powers of the Crown have been well adjusted and defined; and in few, if any, of the Colonies, has it retained a power of any greater extent than it possesses in the Constitution of the Parent State. As in the ancient days of England, her people gained by successive grants and concessions, that share of power and liberty they now enjoy, so in the pro-

gress of society in these her Transatlantic Colonies, have the Colonists acquired, by the concessions of the Crown, a fair and legitimate share of political and civil power, compatible with the progress of their population—their intelligence, and their wealth. This has been particularly the case during the last sixteen years. Within that eventful period, important changes have been made by the Crown in the Constitutions of almost all its Dependencies.

§ 2. The self-invigorating principle of Executive Responsibility has been infused into their Constitutions; and they now have the power by that principle to correct all Government abuses.

To the exertions of the late Earl of Durham, Her Majesty's late High Commissioner and Governor General of British North America, its inhabitants are deeply indebted for the invaluable boon of Responsible Government thus conceded to them by the Crown. That eminent statesman in his valuable Report to Her Majesty on this important subject, states, among other things, that "It needs but to follow out consistently the principles of the British Constitution, and introduce into the Government of the British North American Colonies those wise provisions, by which alone the working of the Representative system can in any country be rendered harmonious or efficient."

"To conduct their Government harmoniously, in accordance with its established principles, is now the business of its rulers, and I know not how it is possible to secure that harmony in any other way, than by administering the Government on those principles which have been found per-

fectly efficacious in Great Britain. I would not impair a single prerogative of the Crown; on the contrary, I believe that the interests of the people of these Colonies require the protection of prerogatives, which have not hitherto been exercised. But the Crown must, on the other hand, submit to the necessary consequences of Representative Institutions; and if it has to carry on the Government in union with a Representative Body, it must consent to carry it on by means of those in whom that Representative Body has confidence."

"In England, this principle has been so long considered an indisputable and essential part of our Constitution, that it has really hardly ever been found necessary to inquire into the means by which its observance is enforced. When a Ministry ceases to command a majority in Parliament on great questions of policy, its doom is immediately sealed; and it would appear to us as strange to attempt, for any time, to carry on a Government by means of Ministers perpetually in a minority, as it would be to pass laws with a majority of votes against them."

"Every purpose of popular control might be combined with every advantage of vesting the immediate choice of advisers in the Crown, were the Colonial Governor to be instructed to secure the co-operation of the Assembly to his policy, by intrusting his administration to such men as could command a majority; and if he were given to understand, that he need count on no aid from home in any difference with the Assembly, that should not directly involve the relations between the mother country and the Colony."

“ The Governor, if he wished to retain advisers not possessing the confidence of the existing Assembly, might rely on the effect of an appeal to the people, and, if unsuccessful, he might be coerced by a refusal of supplies, or his advisers might be terrified by the prospect of impeachment. But there can be no reason for apprehending that either party would enter on a contest, when each would find its interest in the maintenance of harmony; and the abuse of the powers which each would constitutionally possess, would cease, when the struggle for larger powers became unnecessary. Nor can I conceive that it would be found impossible or difficult to conduct a Colonial Government with precisely that limitation of the respective powers which has been so long and easily maintained in Great Britain.”

“ Perfectly aware of the value of our Colonial Possessions, and strongly impressed with the necessity of maintaining our connexion with them, I know not in what respect it can be desirable, that we should interfere with their internal legislation, in matters which do not affect their relations with the mother country. The matters which so concern us are very few;—The Constitution of the form of Government,—the regulation of Foreign Relations, and of Trade with the Mother Country, the other British Colonies, and Foreign Nations, and the disposal of the Public Lands, are the only points on which the Mother Country requires a control. This control is now sufficiently secured by the authority of the Imperial Legislature; by the protection which the Colony derives from us against foreign enemies; by the beneficial terms which our laws secure to its trade; and by its share of the reciprocal



benefits which would be conferred by a wise system of colonization."

"Whatever inconvenience a consequent frequency of changes among the holders of office may produce, is a necessary disadvantage of free government, which will be amply compensated by the perpetual harmony which the system must produce between the people and their rulers."

"The responsibility to the United Legislature, of all the Officers of Government, except the Governor or his Secretary, should be secured by every means known to the British Constitution. The Governor, as the Representative of the Crown, should be instructed that he must carry on his Government by Heads of Departments, in whom the United Legislature shall repose confidence; and that he must look for no support from home in any contest with the Legislature, except on points involving strictly Imperial interests."

§ 3. Such are the invigorating principles of Responsible Government, now in full operation in the neighbouring Colonies, and recently introduced into the Government of Newfoundland, by virtue of a Despatch from the Duke of Newcastle, late Secretary of State for the Colonies, to Ker Baillie Hamilton, Esquire, late Governor of this Island,—bearing date the 21st of February, 1854, by which Despatch the Noble Duke gave the people of this Colony to understand that :

"Her Majesty's Government have come to the conclusion that they ought not to withhold from Newfoundland those institutions, and that system of Civil Administration which, under the popular name of Responsible Government, have

now been adopted in all Her Majesty's neighbouring Possessions in North America."

"They are prepared to concede the immediate application of this system, as soon as certain preliminary conditions have been acceded to, on the part of the Legislature."

Among these preliminaries may be mentioned the following:—"A provision for retiring allowances to certain Officials in the Government—an increase of the number of Members of the House of Assembly to Thirty—and a provision to meet Election expenses."

"These measures having been taken by the Legislature, Her Majesty's Government will proceed to separate the Executive from the Legislative Council, and to provide, by Instructions from Her Majesty, that the latter should consist of not less than Ten, nor more than Fifteen Members, nominated by the Crown."

"With regard to the stipulations respecting the Grant of a Civil List to Her Majesty, which have usually accompanied the grant of Responsible Government, it appears to me sufficient to refer to the arrangements already made under the Act of Parliament 2d and 3d William 4th, Cap. 78, and the Acts of the Newfoundland Legislature 7th Vic. Cap. 1, and 8th Vic. Cap. 6, leaving it to yourself to consider whether any modification of these provisions is now required."

§ 4. In compliance with the conditions referred to in that Despatch, the Local Legislature has made ample provision by two statutory enactments which have received the Royal Assent, and are now the Law of the land. Her Majesty's Government have recently separated the Execu-

tive from the Legislative Council, and have likewise provided, by Royal Instructions, that the latter shall consist of not less than Ten, nor more than Fifteen Members.

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## CHAPTER II.

### THE DIFFERENT FUNCTIONS OF THE GOVERNMENT.

§ 5. With these important changes in its constitution, the Government of this Island may be regarded under two heads, corresponding with the Legislative and Executive functions with which it is clothed, and which are now discriminated with as much precision as is perhaps practicable in any young community. Both which heads we shall consider in their order.

*First—OF THE LEGISLATIVE POWER—and*

*Secondly—OF THE EXECUTIVE POWER.*

#### *First—THE LEGISLATIVE POWER.*

§ 6. The power of making Laws is delegated by the Constitution to the Governor, the Legislative Council, and the House of Assembly.

§ 7. The Governor, as a constituent part of the Legislature, represents the Queen in her Royal Legislative capacity; Her Majesty's Legislative Council sitting in one Chamber, and the Representatives of the people in another.

§ 8. The Governor opens the sittings of the whole body—taking his seat on the throne in the

Chamber of the Council, who are there assembled, and by message he then orders the attendance of the Representatives. When they have arrived, he in a short speech informs the Council and Assembly of the state of the country, its progress, its finances, and the subjects that demand their consideration. All this is transacted in the most public manner. He continues during their sittings to communicate with both Chambers by written messages, and when Bills are ready to be assented to or negatived, he meets them in the same form, with which also he closes their session.

§ 9. Although the Governor, by his official speeches and messages, often suggests and recommends measures to the Council and Assembly, yet every measure which assumes the formal shape of a Bill must originate in the Legislative Council or the Assembly, the power of the Executive being simply to assent to or negative a Bill. The negative power is seldom, if ever, exercised by the Governor, as the Council and Assembly, under Parliamentary Government, are in general aware of the views and interests of the Executive, on all Legislative measures of importance introduced into either branch; there being leading members of the Executive holding seats therein.

§ 10. The LEGISLATIVE COUNCIL is an humble imitation of the House of Lords, representing the views of the Executive and the wealth and general interests of the Colony. Its members as we have already said, are not less than ten, nor more than fifteen. They are appointed either directly or indirectly by the crown; they

receive a writ of *Mandamus* which fixes their rank and precedency. There is no particular remuneration assigned to them for the duties of their office. To be qualified for the office of Legislative Councillor, the person must have attained the age of twenty-one years, and have been born a British subject, or naturalized as such, either in England or any of the British Colonies.

The seats of the Legislative Councillors become vacant when they absent themselves without leave for two consecutive sessions, or upon their becoming citizens of a foreign country, or when they are declared bankrupt, insolvent, or public defaulters, or convicted of any infamous crime. They can also resign their seats whenever they think proper. Their proceedings, while in session, are presided over by a President, nominated by the Governor, and who can be deposed and replaced at will.

§ 11. The Legislative Council does not form, as the House of Lords does, the Supreme Court of Judicature, to which is referred, as a last resort, the final decision of all civil causes. Neither is it the tribunal before which public functionaries can be accused.

The Lords in England enjoy certain personal privileges which the Legislative Councillors do not possess—for example—the latter do not exercise the right of voting by *proxy*, or of substituting their word of honor in place of an oath, &c., as do the Lords.

§ 12. The division of the Legislative power in this Colony has not as many advantages, and is not as indispensable as in England, because

here the members of the Legislative Council do not represent the interests of a nobility or of a special class ; we may say, that the Members of the Council represent the same interests as the Members of the Assembly, taken collectively. The only advantage which the Legislature can derive from the existence of the Council is, that, perhaps, it renders the deliberations of that branch more slow, and consequently more subject to be controlled by public opinion, which can find the time and opportunity to prefer its requests, and make timely representations in all matters of importance.

§ 13. The proceedings of this branch of the Legislature are conducted, and its Journals kept in a similar manner to that observed in the Imperial Parliament.

The members of the Council exercise the right of entering, individually, a protest on the Journals of their body, setting forth the reasons for which they may respectively dissent from any measure or vote of the majority.

§ 14. The next branch of the Legislature is the House of Assembly, consisting of Thirty Members, returned to Parliament by the Electors of the different Electoral Districts of this Island.

The important changes which have recently been made in this branch are such, as materially to affect the basis of its original Constitution.

To form a correct idea of these changes, it is necessary to review, in detail, the various measures adopted from time to time by the Crown—or the authorities in the Colony, in reference to this subject.

§ 15. In granting a Representative form of Government to Newfoundland, the Crown, on the 2d day of March, 1832, issued Letters Patent, under the Great Seal of the United Kingdom, to Sir Thomas John Cochrane, the then Governor and Commander-in-Chief of this Island, authorizing him to summon and call a General Assembly of the Freeholders and Householdiers therein.

In furtherance of that object, a Proclamation was issued in the name of his late Majesty, King William the Fourth, on the 26th day of July, 1832, whereby it was declared, that, "For the purpose of the election of the Members of the said Assembly the Island shall be divided into *Nine Districts*, to be called respectively :—

- " The District of St. John's.
- " The District of Conception Bay.
- " The District of Fogo.
- " The District of Bonavista.
- " The District of Trinity Bay.
- " The District of Ferryland.
- " The District of Placentia and St. Mary.
- " The District of Burin.
- " The District of Fortune Bay.

§ 16. "The District of *St. John's*, shall consist of and include all that part of the said Island, bounded by the shore, which is situate and lying between Petty Harbour and Broad Cove." \*

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\* By an Act of the Legislature of the Colony, passed on the 1st of August, 1833, being the 4th William the 4th, Cap. 6, it is enacted, That the towns or settlements of Broad Cove and Petty Harbour, and the Islands of Belle Isle, Little Belle Isle, and Kelly's Island, in Conception Bay, shall be annexed to, and be included within the District of St. John's.

§ 17. "The District of Conception Bay shall consist of and include all that part of the Island which, bounded in like manner, is situate and lying between Broad Cove and Bay Verds Head."

§ 18. "The District of Fogo shall consist of and include all that part of the Island, which, bounded in like manner, is situate between Cape St. John and Fogo Island, including that Island."

§ 19. "The District of Bonavista shall consist of and include all that part of the Island, which, bounded in like manner, is situate and lying between Cape Freels and Cape Bonavista."

§ 20. "The District of Trinity Bay shall consist of and include all that part of the said Island, which, bounded in like manner, is situate and lying between Cape Bonavista and Cape Verds Head."

§ 21. "The District of Ferryland shall consist of and include all that part of the said Island, which, bounded in like manner, is situate and lying between Petty Harbour and Cape Race."

§ 22. "The District of Placentia and St. Mary shall consist of and include all that part of the Island which, bounded in like manner, is situate and lying between Cape Race and Rushoon."

§ 23. "The District of Burin shall consist of and include all that part of the Island which, bounded in like manner, is situate and lying between Rushoon and Garnish."

§ 24. "The District of Fortune Bay shall consist of and include all that part of the Island which,



bounded in like manner, is situate and lying between Garnish and Bonne Bay."

§ 25. The Proclamation also made provision for the return of Fifteen members to represent the said Electoral Districts in the General Assembly.

§ 26. It was also declared by the said Proclamation, that, "the Governor should issue writs for the election of the members of the several Electoral Districts; which writs should be addressed to the several Returning Officers appointed by the Governor, and should by them be returned to the Colonial Secretary of the Island.

§ 27. It was likewise provided by the like authority, that, "Every man, being of the full age of twenty-one years and upwards, of sound understanding, and being our natural-born subject, or having been lawfully naturalized, and never having been convicted in due course of law of any infamous crime, and having for two years, next immediately preceding the day of election, occupied a Dwelling-house within our said Island, as Owner or Tenant thereof, shall be eligible to be a member of the said House of Assembly."

§ 28. Also "that every man who, for one year next immediately preceding the day of election, hath occupied a Dwelling-house within our said Island, as Owner or Tenant thereof, and who, in other respects, may be eligible, according to the regulations aforesaid, to be a member of the said House of Assembly shall be competent and entitled to vote for the Election of Members of the General Assembly, in and for the District within which the Dwelling-house, so occupied as aforesaid, may be situate."

§ 29. "That the votes for the Members of the said Assembly, shall be taken by the said several Returning Officers, at such one or more place or places within each of the Districts as shall for that purpose be appointed in the body of the writ, addressed to the Returning Officer of every such District respectively, and at or within such time or times as shall for the purpose be therein limited. But, inasmuch as by reason of the difficulty in internal communication within our said Island, many persons entitled to vote might be prevented from the exercise of such their franchise, if, in every case, it were necessary to attend in person for that purpose: We do therefore declare Our pleasure to be, that in respect of any Dwelling-house situate at the distance of more than fifteen miles from the nearest place of election, within any of the said Districts, the vote of any Householder, duly qualified as aforesaid, may be given without his personal attendance, by written notice subscribed by such Voter in the presence of two credible witnesses, and duly attested by their signatures; which notice shall be in such form as the Governor shall from time to time direct."

§ 30. "That if any Candidate or Voter, at any such Election, shall object to any vote then tendered, it shall be the duty of the Returning Officer to hear such objections, and what may be alleged in support of, or in answer to the same; and to examine, on oath, the parties by or against whom such objection may be raised, and any person or persons who may be adduced as a witness, or as witnesses on either side, and on such hearing to admit or to overrule any such objection as may to such Returning Officer appear just and right."

§ 31. " That the persons in favour of whom the greater number of votes shall be given in any such district, shall be publicly declared by such Returning Officer to be duly elected to be the Representatives thereof in the said General Assembly, and shall thereupon be returned and take their seats accordingly. Provided always, that, in cases of peculiar doubt or difficulty, it shall be competent for any such Returning Officer to make a special return, setting forth the grounds of such doubt, upon which the said House of Assembly shall afterwards decide."

§ 32. " And whereas it may be necessary, in order to the complete execution of the several purposes aforesaid, that farther regulations should be made for the conduct of the said Elections and the Return of members to serve in the said House of Assembly, we have therefore authorised, and do hereby authorize our Governor, for the time being, of our said Island, by any Proclamation or Proclamations, to be by him from time to time issued, in our name, and in our behalf, to make such further regulations as may be necessary for the conduct of the said Elections, and for the Return of Members to serve in the said House of Assembly, and for the due discharge of the duties of the said Returning Officers; and which regulations shall be of full force, virtue, and effect, until provision be otherwise made by law; it being nevertheless our pleasure, that the regulations so to be made as aforesaid, be not repugnant to, nor inconsistent with, the several provisions hereinbefore contained, or any of them."\*

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\* In accordance with the above provision, Proclamations have, from time to time, been issued, making further provisions for the time, place, and manner of holding Elections in this Island.

§ 33. For the convenience and purity of Elections of Representatives to the House of Assembly, the Legislature of the Colony passed an Act (on the 12th June, 1834) in the 4th year of the reign of William the 4th, entitled "An Act for Registering the Names of Persons entitled to Vote at Elections."

§ 34. By this Act it is provided, "I. That from and after the Thirty-first day of December, 1834, no Person shall be entitled to Vote at the Election of any Member to serve in the Commons House of Assembly, whose name shall not have been previously Registered in the manner required by this Act."

§ 35. "II.—That at the Courts of General Session of the Peace, in the several Districts of this Island, to be held next after the First Day of July, in the present and every succeeding year, at such times and places as His Excellency the the Governor shall, by his Proclamation, be pleased to appoint, the Justices at such Sessions shall make out lists of all the inhabited places within their respective Districts, and shall assign to each of such Justices, and to each of the Conservators of the Peace, within such District a particular Division thereof, within which such Justices or Conservators of the Peace shall act, in procuring and revising the lists required by this Act; and such Justice or Conservator of the Peace, shall give orders or instructions in writing, to the respective Constables residing within the Divisions, to him, or them respectively assigned, for such Constables to make out alphabetical lists according to the form (No. 1) in the Schedule

hereunto annexed, of all persons entitled to vote at such Elections as aforesaid, who reside at such place or places, or within such limits as such Justice or Conservator of the Peace, may, by such orders or instructions, assign to such Constables respectively; and of all Persons who shall claim to be inserted in such Lists; and such Constables shall respectively prepare such Lists accordingly, and shall cause copies thereof to be fixed on or near the Doors of all Churches, Chapels, and Meeting Houses, or other Places of Public Worship within such Town or Place; or if there be no such Church or Place of Public Worship, then on some Public Place within such Town or Place respectively, and shall also affix thereto, a notice, according to the form (No. 2) in the Schedule to this Act annexed, requiring all Persons whose Names are not included in such Lists, and who may consider themselves entitled to vote at such Election, to deliver or transmit to the said Constables respectively, on or before the First Day of September in the present and every succeeding Year, a notice of their claim as such Voters, according to the form (No. 3) in the said Schedule, or to that effect: *Provided always*, that after the formation of the Register to be made in each Year as hereinafter mentioned, no Person whose name shall be upon such Register for the time being, shall be required thereafter to make any such claim as aforesaid, so long as he shall retain the same qualification and continue in the same place of abode described in such Register: *Provided also*, that any person who may have been absent from his usual Dwelling-place during the whole time when the List prepared by the Constable was posted up at such place; until the

**Twentieth Day of September of the same Year and whose name shall have been omitted from such List, may at any time after the said Twentieth day of September, and before the next annual revision of the List, give notice to the revising Magistrate, or to the Court of Quarter Sessions respectively, of his claim to be inserted in such List; and such revising Magistrate or the Justices of the said Court of Session shall, if satisfied of his claim to be inserted in such List, insert his name therein accordingly, in like manner as if such Person had preferred his claim before such Magistrate whilst holding his Court for the revision of names as hereinafter provided.**

**§ 36. “ III.—That the said Constables shall respectively, to the best of their knowledge and information insert the names of all qualified persons into Lists, and deliver and duly make return of all such Lists, to the respective Justices or Conservators of the Peace, by whose direction such Constables shall or may have acted in making out such Lists.”**

**§ 37. “ IV.—That the said Justices or Conservators of the Peace of each of the said Districts, shall on or before the Twentieth Day of September, in the present year, make out or cause to be made out, according to the form (No. 5) in the said Schedule, a General Alphabetical List of all Persons within the several Divisions of their respective Districts, entitled to vote at such Election as aforesaid, or who shall claim to be inserted in such List, as voters in the Election of a Representative or Representatives, to serve for such District, in respect of any House**

or Tenement occupied by them, and that the said Justices or Conservators of the Peace, shall, respectively, on or before the Twentieth Day of September in every succeeding year, make out or cause to be made out, a like List, containing the names of all Persons who shall be on the Register for the time being as such Voters, and also, the names of all Persons who shall claim as aforesaid to be inserted in such List as such Voters, and in every List so to be made by the said Justices or Conservators of the Peace as aforesaid, the Christian Name and Surname of every Person shall be written at full length, together with the place of his abode, and the local description of the Dwelling-House or Tenement, as the same are respectively set forth in his claim to vote. And the said Justices and Conservators of the Peace, or any of them, if they shall have reasonable cause to believe, that any Person so claiming as aforesaid, or whose name shall appear in the Register for the time being, is not entitled to vote in the Election of a Member or Members for the District, County or Township in which his or their place of residence is stated to be situate, shall have the power to add the words "*objected to*" opposite the Name of every such Person on the margin of such List; and the Justices or Conservators of the Peace, or one of them, in each respective Division of the District, shall sign such List, and shall cause a sufficient number of copies thereof to be written or printed, and to be fixed on or near to the Doors of all the Churches, Chapels and Meeting-Houses therein, to be posted up in some public situations therein. And the said Justices or Conservators of the Peace shall likewise keep a true copy of such List to be pe-

rused by any Person, without payment of any fee, at all reasonable hours, during the period of the sitting of their respective Courts of Revision, after the said list shall have been made."

§ 38. "V.—That every Person who shall be upon the Register for the time being, of Voters for any District or County, or any Constable of the District, may object to any Person as not having been entitled to have his name inserted in any List of Voters for such District or County; and every Person so objecting (save and except Justices and Conservators of the Peace objecting in the manner hereinbefore mentioned) shall, on or before the Twentieth Day of September in the present and every succeeding year, give or cause to be given, a notice in writing according to the form (No. 3.) in the said Schedule hereunto annexed, or to the like effect, to the Justices or Conservators of the Peace, who shall have made out the List in which the name of the Person so objected to, shall have been inserted, and the Person so objecting shall also, on or before the Tenth Day of September, in the present and every succeeding year, give to the Person objected to, or leave at his place of abode as described in such List, a notice in writing according to the form (No. 4.) in the said Schedule, or to the like effect."

§ 39. "VI.—That on the Twentieth day of September in the present and every succeeding year, the said Justices and Conservators of the Peace, shall, in their respective Divisions, of each and every District of this Colony, hold open Courts of Revision, at the places within the



respective Districts in which they respectively reside; and such Court shall be held by one Justice or Conservator of the Peace, or in such places where there shall be more than one, then by two or more Justices or Conservators of the Peace for the said District, and such Justices or Conservators of the Peace respectively, shall there produce or cause to be produced, the several Lists of Voters so made and taken as aforesaid for that Division of such District or County respectively; and also, a List of the Persons objected to, so made out as aforesaid; and the aforementioned Constables shall respectively answer upon Oath, all such questions as the said Justices or Conservators of the Peace or any of them may put, touching any matter necessary for revising the List of Voters. And such Justices or Conservators of the Peace, shall retain on the Lists of Voters, the Names of all Persons to whom no objection shall have been made in the manner hereinbefore mentioned, and shall also retain on the List of Voters the name of every Person who shall have been objected to, unless the party objecting shall appear by himself, or some one on his behalf, in support of such objection; and where the name of any party, inserted in the List of Voters, shall have been objected to by any Person, and such person so objecting, shall appear by himself or some one on his behalf in support of such objection, every Justice or Conservator of the Peace shall require it to be proved, that the Person so objected to, was entitled on the First day of September, then last past, to have his Name inserted in the List of Voters; and in case the same shall not be proved to the satisfaction of such Justice or Conservator of the Peace,

the name of such Person shall be expunged from the List; *Provided always*, that if it shall happen that any Person, who shall have given to the said Justices or Conservators of the Peace, or the said Constables respectively, due notice of his claim to have his name inserted in the List of Voters as aforesaid, shall have been omitted by such Constable or Magistrate from the said List, it shall be lawful for such Justice or Conservator of the Peace, upon the revision of such List, to insert the name of the Person so omitted, in case it shall be proved to the satisfaction of such Justice or Conservator of the Peace, that such Person gave due notice of such his claim, and that he was entitled on the First Day of September then last past, to be inserted in the List of Voters in the Election of a Member or Members for the said respective Districts."

§ 40. "VII.—That all Justices and Conservators of the Peace in holding any Court under this Act, shall have power to adjourn the same from time to time for the space of Ten Days and no longer, and from any one place to any other place, within their respective Divisions of the District; and shall also have power to administer Oaths to all Persons objected to or claiming to be inserted in any such Lists; and to all Witnesses who may be tendered on either side; and if any Person taking any Oath under this Act, shall wilfully swear falsely, such Person shall be deemed guilty of perjury, and shall be punished accordingly. And such Justices or Conservators of the Peace, shall, upon such hearing in open Court, determine upon the validity of all claims and objections and shall write his or their Names

or Initials against the Names respectively struck out or inserted, and against any part of the said Lists in which any mistake shall have been corrected, and shall sign their Names to every page of the several Lists so settled, and such Lists of Voters so signed, shall be kept among the Records of the Courts of Sessions of the respective Districts, and the said Justices or Conservators of the Peace shall, forthwith, cause the said Lists to be fairly and truly copied, in alphabetical order, in a Book or Register to be provided for that purpose; and shall prefix to every Name so copied out, in proper numbers, beginning the number from the first Name, and continuing them down to the last Name; and such Register, or Book of Voters, shall be completed and delivered to the Chief Magistrate of the District, in sufficient time before the then next General or Quarter Sessions of the Peace for such District; and immediately after such General or Quarter Sessions of the Peace, a true copy of such Register shall be transmitted, by such Chief Magistrate, to the Colonial Secretary, who, at every Election, shall transmit the same to the proper Returning Officers, who, after such Election, shall return the same with the Writ."

§ 41. "VIII.—That if any Person claiming to vote in the Election of a Member or Members of any District aforesaid, shall feel aggrieved by the decision of any Justice or Conservator of the Peace, as to his claim to vote, such person may appeal to the then next General or Quarter Sessions of the Peace for the District, and the Justices of such General or Quarter Sessions shall and may revise and alter the said List of Voters,

by the addition of the name of such person, if it shall appear to the satisfaction of such Justices that such person was, on the first day of September then last past, duly qualified to vote as an Elector of the said District respectively."

§ 42. "IX.—That any person whose name shall have been omitted from any Registry of Voters in consequence of the decision of any such Justice or Conservator of the Peace, or any Court of Sessions which shall have revised the Lists from which such Register shall have been formed, may tender his vote at any Election at which such Register shall be in force, stating at the time the Name or Names of the Candidate or Candidates for whom he tenders such Vote, and the Returning Officer, or his Deputy, shall enter upon the Poll Book every Vote so tendered, distinguishing the same from the Votes admitted and allowed at such Election. *Provided always, that in case any person claiming to vote at any such Election as aforesaid, and who shall have tendered his vote at the same, not having been duly registered according to the provisions of this Act, shall make it appear to the satisfaction of the Returning Officer at such Election, that he has actually occupied a Dwelling House for TWELVE MONTHS next before the Day of such Election, and that such TWELVE MONTHS had not expired on the First Day of September then last past, and is otherwise qualified according to Law to vote at such Election; such Person shall be entitled to have his Name entered on the Poll Book, in like manner as if his Name had been duly registered as herein provided.*

§ 43. "X.—That upon Petition to the Com-

mons House of Assembly, complaining of an undue election or return of any Member or Members to serve in Parliament, any Petitioner or person defending such Election or Return, shall be at liberty to impeach the correctness of the Register of Voters in force at the time of such Election, by proving that in consequence of the decision of the Justices, or Court, which shall have revised the Lists of Voters from which such Register shall have been formed, *the name of any person who has voted at such Election was improperly inserted or retained in such Register, or the name of any person who tendered his vote at such Election, improperly omitted from such Register, or not entered upon the Poll Book by the Returning Officer, when tendered*; and the Committee, appointed for the trial of such Petition, shall alter the the Poll taken at such Election according to the truth of the case, and shall report their determination thereupon to the House, and the House shall thereupon carry such determination into effect; and the Return shall be amended or the Election declared void, as the case may be; and the Register corrected accordingly, or such other order shall be made as to the House, shall seem proper.

§ 44. "XI. That no more than one person shall be registered as a person entitled to vote for or in respect of the occupation of any one Dwelling House; *Provided always*, that, for the purposes of this Act, any Tenement shall be deemed a Dwelling House for which the Occupier pays Rent by the year, and of which he has the exclusive possession." \*

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\* The above Act was suspended for one year by the local Act 8th Wm. 4, cap. 2.

§ 45. SCHEDULE.  
No. 1.

District of }

The List of persons entitled to vote in the Election of a Member (or Members) for the District of \_\_\_\_\_ in respect of Dwelling Houses situated within the Port (Cove or Harbor) of \_\_\_\_\_ and the vicinity thereof.

Christian Name and Surname of each Voter, at full length.	Place of abode and Qualification.	Street, Lane, Road, &c.
Adams, John	St. John's	King's Road
Berrigan, James	St. John's	Kin gs Road

§ 46. No. 2.

(Notice of Constable to be attached to or published with the List of Voters.)

I hereby give notice that the Justice of the Peace for this District, will on or before the \_\_\_\_\_ of this year, make out a List of all Persons entitled to Vote in the Election of a Member (or Members) to represent the \_\_\_\_\_ District of \_\_\_\_\_ in the General Assembly. And all Persons so entitled, and whose names are not included in the above List, are hereby required to deliver or transmit to me, on or before the \_\_\_\_\_ day of \_\_\_\_\_ in this year, a claim in writing, containing their Christian Names, and Surnames, and the Name of the Harbor or Cove, and Place, where the Dwelling House they claim to occupy is situate.

A. B. [Constable.]

§ 47. No. 3.

[ Notice of Claim to be given to the Magistrate or Constable.]

I hereby give you notice that I claim to be inserted in the List of the Voters for the District of \_\_\_\_\_ and that the particulars of my place of abode and qualification are stated below.

Dated at \_\_\_\_\_ the \_\_\_\_\_ day, &c.

To Mr. E. F. }  
                   or  
 G. H., Esq., }

C. D.

§ 48. No. 4.

[ Notice to be given to the Voter objected to by the party objecting.]

I hereby give you notice that I object to your right of being registered as an Elector for the District of \_\_\_\_\_ Dated at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ J. K.

§ 49. No. 5.

District of \_\_\_\_\_ }

The List of Persons entitled to Vote in the Election of a Member (or Members) for the District of \_\_\_\_\_ in respect of Dwelling Houses

situate in the  
District.

Division of the said Dis-

Christian Name and Surname of each Voter, at full.	Place of abode and Qualification.	Street, Lane, or other local description.
Agnew, Andrew Burdett, Francis	St. John's. St. John's.	Church Hill, Queen Street

§ 50. The Legislature of the Colony, on the 30th of April, 1850, amended the foregoing Act, by passing the 13th Victoria, Cap. 1, whereby it is provided : " 1. That from and after the passing hereof, lists of Persons entitled to Vote at Elections in the several Districts of this Island, shall be taken and revised in manner prescribed in and by the said recited Act, *once in every four years*, and not in each year, as provided by the said Act. *Provided always*, that in the event of a particular or General Election of a person or persons to serve as Member or Members in the House of Assembly, being appointed to take place at any time before the expiration of any one of the periods of *four years* therein limited, for taking and revising the said Lists, and after the expiration of *one year* from the time when such Lists shall have been last taken and revised, it shall and may be lawful for the Governor, for the time being, by and with the advice of Her Majesty's Council, to cause the provisions of the said recited Act to be put into operation in any one or all of the said Districts of this Island. *Provided*, that should it be found necessary or expedient to hold an Election or Elections at any



period of the year, when, by reason of the times limited in the said recited Act for serving notices and holding Courts of Revision, the provisions of the said Act cannot be carried into effect, the Registry of the said Voters shall be taken and revised as nearly as may be, according to the provisions of the said recited Act, but with such alterations in the manner of taking and revising the same as may be found necessary."

§ 51. "II—That it shall be lawful for the Governor, from time to time, to appropriate in the proportions hereinafter mentioned, the sum of One Hundred and Fifty-five Pounds to defray the expenses of each Quadrennial Registration in the several Districts of this Colony under this Act, and a like proportion of the above sum for each particular Registration in any of the said Districts; that is to say:—

" District of St. John's . . .	£30	0	0
Conception Bay . . .	25	0	0
Trinity Bay . . .	15	0	0
Bonavista Bay . . .	12	10	0
Twillingate and Fogo . . .	12	10	0
Ferryland . . .	10	0	0
Placentia and St. Mary . . .	15	0	0
Burin . . .	10	0	0
Fortune Bay . . .	15	0	0
	<hr/>		
	£155	0	0
	<hr/>		

§ 52. In pursuance of the Commission, Instructions, Proclamation and Statutes hereinbefore referred to, General Assemblies have, from time to time, been elected and held in Newfound-

rused by any Person, without payment of any fee, at all reasonable hours, during the period of the sitting of their respective Courts of Revision, after the said list shall have been made."

§ 38. "V.—That every Person who shall be upon the Register for the time being, of Voters for any District or County, or any Constable of the District, may object to any Person as not having been entitled to have his name inserted in any List of Voters for such District or County; and every Person so objecting (save and except Justices and Conservators of the Peace objecting in the manner hereinbefore mentioned) shall, on or before the Twentieth Day of September in the present and every succeeding year, give or cause to be given, a notice in writing according to the form (No. 3.) in the said Schedule hereunto annexed, or to the like effect, to the Justices or Conservators of the Peace, who shall have made out the List in which the name of the Person so objected to, shall have been inserted, and the Person so objecting shall also, on or before the Tenth Day of September, in the present and every succeeding year, give to the Person objected to, or leave at his place of abode as described in such List, a notice in writing according to the form (No. 4.) in the said Schedule, or to the like effect."

§ 39. "VI.—That on the Twentieth day of September in the present and every succeeding year, the said Justices and Conservators of the Peace, shall, in their respective Divisions, of each and every District of this Colony, hold open Courts of Revision, at the places within the

respective Districts in which they respectively reside; and such Court shall be held by one Justice or Conservator of the Peace, or in such places where there shall be more than one, then by two or more Justices or Conservators of the Peace for the said District, and such Justices or Conservators of the Peace respectively, shall there produce or cause to be produced, the several Lists of Voters so made and taken as aforesaid for that Division of such District or County respectively; and also, a List of the Persons objected to, so made out as aforesaid; and the aforementioned Constables shall respectively answer upon Oath, all such questions as the said Justices or Conservators of the Peace or any of them may put, touching any matter necessary for revising the List of Voters. And such Justices or Conservators of the Peace, shall retain on the Lists of Voters, the Names of all Persons to whom no objection shall have been made in the manner hereinbefore mentioned, and shall also retain on the List of Voters the name of every Person who shall have been objected to, unless the party objecting shall appear by himself, or some one on his behalf, in support of such objection; and where the name of any party, inserted in the List of Voters, shall have been objected to by any Person, and such person so objecting, shall appear by himself or some one on his behalf in support of such objection, every Justice or Conservator of the Peace shall require it to be proved, that the Person so objected to, was entitled on the First day of September, then last past, to have his Name inserted in the List of Voters; and in case the same shall not be proved to the satisfaction of such Justice or Conservator of the Peace,

the name of such Person shall be expunged from the List; *Provided always*, that if it shall happen that any Person, who shall have given to the said Justices or Conservators of the Peace, or the said Constables respectively, due notice of his claim to have his name inserted in the List of Voters as aforesaid, shall have been omitted by such Constable or Magistrate from the said List, it shall be lawful for such Justice or Conservator of the Peace, upon the revision of such List, to insert the name of the Person so omitted, in case it shall be proved to the satisfaction of such Justice or Conservator of the Peace, that such Person gave due notice of such his claim, and that he was entitled on the First Day of September then last past, to be inserted in the List of Voters in the Election of a Member or Members for the said respective Districts."

§ 40. "VII.—That all Justices and Conservators of the Peace in holding any Court under this Act, shall have power to adjourn the same from time to time for the space of Ten Days and no longer, and from any one place to any other place, within their respective Divisions of the District; and shall also have power to administer Oaths to all Persons objected to or claiming to be inserted in any such Lists; and to all Witnesses who may be tendered on either side; and if any Person taking any Oath under this Act, shall wilfully swear falsely, such Person shall be deemed guilty of perjury, and shall be punished accordingly. And such Justices or Conservators of the Peace, shall, upon such hearing in open Court, determine upon the validity of all claims and objections and shall write his or their Names

or Initials against the Names respectively struck out or inserted, and against any part of the said Lists in which any mistake shall have been corrected, and shall sign their Names to every page of the several Lists so settled, and such Lists of Voters so signed, shall be kept among the Records of the Courts of Sessions of the respective Districts, and the said Justices or Conservators of the Peace shall, forthwith, cause the said Lists to be fairly and truly copied, in alphabetical order, in a Book or Register to be provided for that purpose; and shall prefix to every Name so copied out, in proper numbers, beginning the number from the first Name, and continuing them down to the last Name; and such Register, or Book of Voters, shall be completed and delivered to the Chief Magistrate of the District, in sufficient time before the then next General or Quarter Sessions of the Peace for such District; and immediately after such General or Quarter Sessions of the Peace, a true copy of such Register shall be transmitted, by such Chief Magistrate, to the Colonial Secretary, who, at every Election, shall transmit the same to the proper Returning Officers, who, after such Election, shall return the same with the Writ."

§ 41. "VIII.—That if any Person claiming to vote in the Election of a Member or Members of any District aforesaid, shall feel aggrieved by the decision of any Justice or Conservator of the Peace, as to his claim to vote, such person may appeal to the then next General or Quarter Sessions of the Peace for the District, and the Justices of such General or Quarter Sessions shall and may revise and alter the said List of Voters,

by the addition of the name of such person, if it shall appear to the satisfaction of such Justices that such person was, on the first day of September then last past, duly qualified to vote as an Elector of the said District respectively."

§ 42. "IX.—That any person whose name shall have been omitted from any Registry of Voters in consequence of the decision of any such Justice or Conservator of the Peace, or any Court of Sessions which shall have revised the Lists from which such Register shall have been formed, may tender his vote at any Election at which such Register shall be in force, stating at the time the Name or Names of the Candidate or Candidates for whom he tenders such Vote, and the Returning Officer, or his Deputy, shall enter upon the Poll Book every Vote so tendered, distinguishing the same from the Votes admitted and allowed at such Election. *Provided always, that in case any person claiming to vote at any such Election as aforesaid, and who shall have tendered his vote at the same, not having been duly registered according to the provisions of this Act, shall make it appear to the satisfaction of the Returning Officer at such Election, that he has actually occupied a Dwelling House for TWELVE MONTHS next before the Day of such Election, and that such TWELVE MONTHS had not expired on the First Day of September then last past, and is otherwise qualified according to Law to vote at such Election, such Person shall be entitled to have his Name entered on the Poll Book, in like manner as if his Name had been duly registered as herein provided.*

§ 43. "X.—That upon Petition to the Com-

mons House of Assembly, complaining of an undue election or return of any Member or Members to serve in Parliament, any Petitioner or person defending such Election or Return, shall be at liberty to impeach the correctness of the Register of Voters in force at the time of such Election, by proving that in consequence of the decision of the Justices, or Court, which shall have revised the Lists of Voters from which such Register shall have been formed, *the name of any person who has voted at such Election was improperly inserted or retained in such Register, or the name of any person who tendered his vote at such Election, improperly omitted from such Register, or not entered upon the Poll Book by the Returning Officer, when tendered*; and the Committee, appointed for the trial of such Petition, shall alter the the Poll taken at such Election according to the truth of the case, and shall report their determination thereupon to the House, and the House shall thereupon carry such determination into effect; and the Return shall be amended or the Election declared void, as the case may be; and the Register corrected accordingly, or such other order shall be made as to the House, shall seem proper.

§ 44. "XI. That no more than one person shall be registered as a person entitled to vote for or in respect of the occupation of any one Dwelling House; *Provided, always*, that, for the purposes of this Act, any Tenement shall be deemed a Dwelling House for which the Occupier pays Rent by the year, and of which he has the exclusive possession." \*

\* The above Act was suspended for one year by the local Act 5th Wm. 4, cap. 2.

§ 45. SCHEDULE.  
No. 1.

District of }

The List of persons entitled to vote in the Election of a Member (or Members) for the District of \_\_\_\_\_ in respect of Dwelling Houses situated within the Port (Cove or Harbor) of \_\_\_\_\_ and the vicinity thereof.

Christian Name and Surname of each Voter, at full length.	Place of abode and Qualification.	Street, Lane, Road, &c.
Adams, John	St. John's	King's Road
Berrigan, James	St. John's	Kin gs Road

§ 46. No. 2.

(Notice of Constable to be attached to or published with the List of Voters.)

I hereby give notice that the Justice of the Peace for this District, will on or before the \_\_\_\_\_ of this year, make out a List of all Persons entitled to Vote in the Election of a Member (or Members) to represent the \_\_\_\_\_ District of \_\_\_\_\_ in the General Assembly. And all Persons so entitled, and whose names are not included in the above List, are hereby required to deliver or transmit to me, on or before the \_\_\_\_\_ day of \_\_\_\_\_ in this year, a claim in writing, containing their Christian Names, and Surnames, and the Name of the Harbor or Cove, and Place, where the Dwelling House they claim to occupy is situate.

A. B. [Constable.]



## § 47. No. 3.

[ Notice of Claim to be given to the Magistrate or Constable.]

I hereby give you notice that I claim to be inserted in the List of the Voters for the District of \_\_\_\_\_ and that the particulars of my place of abode and qualification are stated below.

Dated at \_\_\_\_\_ the \_\_\_\_\_ day, &c.

To Mr. E. F. }  
                   or  
 G. H., Esq., }

C. D.

## § 48. No. 4.

[ Notice to be given to the Voter objected to by the party objecting.]

I hereby give you notice that I object to your right of being registered as an Elector for the District of \_\_\_\_\_ Dated at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ J. K.

## § 49. No. 5.

District of \_\_\_\_\_ }

The List of Persons entitled to Vote in the Election of a Member (or Members) for the District of \_\_\_\_\_ in respect of Dwelling Houses

Presiding Officer, and Ten Shillings for every Poll Clerk, to include their Travelling Fees; and the Fees shall be paid to the Returning Officer for each District on the day of Nomination of Candidates for such District; and the name of no Candidate shall be entered on the Returning Officer's Poll Book, or returned to Presiding Officers, who shall not have paid or tendered the full amount due from him under this Section before the expiration of the time named for the Nomination of Candidates: Provided always, that the amount to be paid by any Candidate shall not exceed the Sum of Ten Pounds."

§ 70. On the 30th day of April 1850, the local Legislature passed an Act intituled "*An Act to provide for the Vacation of Seats of Members of the House of Assembly in certain cases, and for the Election of Members in their stead.*" By which it is provided, "I.—That from and after the passing hereof, whenever any Member of the House of Assembly of this Island shall accept any office of emolument from the Crown, his seat in the said House of Assembly shall immediately thereupon become vacant.

§ 71. "II.—That whenever any Member shall accept any such office as aforesaid, or any Member who shall be desirous of resigning his seat as a Member of the said House of Assembly, shall, by writing under his hand, in the form hereunto annexed, tender to the Governor, or Person administering the Government for the time being, the resignation of his seat in the said House of Assembly, it shall and may be lawful for the Governor, or Person administering the Government for the time being, to issue a writ,

after such acceptance of office or resignation aforesaid, for the election and return of a Member in place of him so accepting office or resigning, as aforesaid: *Provided always*, that nothing herein contained shall prevent a Member so accepting office or resigning his seat as aforesaid, from being re-elected a Member of the said House of Assembly: *Provided also*, that any Member so resigning, and offering himself as a candidate at the election consequent on such resignation, shall bear the expenses of such election, so far as the same have been usually borne by the Colony, and shall, before he shall be nominated as a candidate for such election, deposit with the Colonial Secretary such sum of money, not exceeding the amount paid by the Colony for the last preceding election of the District for which such Member was returned, as the Governor in Council shall direct; which sum, or so much thereof, as may be required for that purpose, shall be applied by the said Colonial Secretary in discharge of such expenses.

§ 72. "III.—*And be it further enacted*, That nothing herein contained shall extend, or be construed to extend, to vacate the seat of any Member of the House of Assembly who may accept a commission or appointment in her Majesty's Army or Navy, or who may accept any office which is now or may be hereafter compulsory or obligatory by the imposition of any fine or penalty by the laws of this Island, or who shall accept any acting appointment, where such acting appointment shall not continue beyond the period of six calendar months.

§ 73. "IV.—*And be it further enacted*, That

whenever any Member of the said House of Assembly shall be declared bankrupt or insolvent, the seat of such Member shall immediately thereupon become vacant, and the Governor, or Person administering the Government, shall issue a writ for the election and return of a Member in the stead of him so declared bankrupt or insolvent: *Provided always*, that nothing herein contained shall prevent such Member so declared bankrupt or insolvent from being re-elected a Member of the said House of Assembly, he having first obtained a certificate of discharge pursuant to law, and being otherwise duly qualified.

§ 74. "V.—*And be it further enacted*, That this Act shall not have any force or effect until Her Majesty's pleasure thereon shall have been first duly signified.†

## § 75. FORM OF RESIGNATION.

*To His Excellency, &c.*

MAY IT PLEASE YOUR EXCELLENCY;—

I, the undersigned, A. B., of  
Esquire, Member of the General Assembly for  
the District of                      do hereby resign my  
seat as Member for the said District.

Given under my  
hand at                      this                      day of

A. D. 18                      .

Signed by the said A. B., in {  
presence of us,                      }  
C. D., of &c.                      }  
E. F.                      }

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† This act received the royal assent.

§ 76. By an Act of the Legislature of the Colony, the 6th William 4th, cap. 7, intituled "*An Act to limit the duration of the present, and all future Houses of Assembly, in this Colony,*" it is provided :

" I. That the then existing House of Assembly of the Colony should cease and determine on on the First day of January, 1838.\*

§ 77. " II. That from henceforth each and every House of Assembly which shall at any time or times hereafter be convened, called, summoned or held within this Island of Newfoundland shall, notwithstanding the demise of the Crown, have continuance for the term or period of *Four years*, to be computed from the day on which by any Proclamation or Proclamations of His Majesty such Assembly shall first be duly appointed to meet, and no longer ; Provided always, that nothing herein contained shall extend, or be construed to extend, to prevent His Majesty, his Heirs or Successors, from dissolving any Assembly, shall he or they deem it expedient so to do."

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MODE OF CALLING THE GENERAL ASSEMBLY AND  
MANNER OF PROCEEDING THEREIN.

§ 78. The mode of calling a General Assembly is by the order of the Governor to the Colonial Secretary. The latter prepares Writs in the Governor's name, directed to the Returning Officer in each District, to cause Representatives for such District to be elected. These Writs are signed by the Governor, and sealed

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\* That House was dissolved by Proclamation, in 1836.

with the Great Seal of the Island, and are countersigned by the Secretary. A Proclamation is published in the *Gazette* at the same time, in which the calling of the Assembly is stated. The Governor also dissolves it by his proclamation, and its prorogation from session to session is intimated by the President of the Council, at the Governor's command publicly, at the close of the session, in the Council Chamber, when the three Branches are met together.

By the tenor of the Royal Instructions, the Governor is bound to bring the Assembly together once in every year.

§ 79. Reserving such authority as the Parliament of the United Kingdom may hold for the general interest of the Empire, over this portion of it, the whole sovereign legislative power, in almost all local matters, is exercised by the General Assembly of the Island, which makes, alters, or abrogates the Laws, and appropriates public moneys, levies duties, imposes taxes, investigates public accounts, redresses grievances, and generally legislates on the affairs of the Colony, as they are brought under its notice by the Government, by its own Members, or by Petition from their constituents.

§ 80. The rules of practice which govern the proceedings of a Colonial Assembly, are not of *necessity* analagous to the rules of practice of the Imperial Parliament; but depend on the constitution and usage of the Colony itself. —2 *Chalm. op.*, 3.

The latter being governed by the *lex Parliamenti*, or its own precedents, while the former is

regulated by the *Common law and Colonial usages*.—1 Chalm. op. 263.

§ 81. Among the privileges of the Assembly may be mentioned, *freedom of speech in debate*, and *freedom from arrest*. At the opening session of every new Assembly, the Speaker demands those privileges of the Governor, in the name of the House, as well as personal access for himself to his Excellency, whenever public business should require it. The personal freedom from arrest extends to all civil process, and also to all criminal, except treason, felony, and actual breach of the peace.

§ 82. By the usages of Parliament, all parties concerned in the arrest of a Member will be made liable to punishment by the House, for the contempt of its privileges.

§ 83. It is the indisputable right of the House of Assembly that all money grants begin there.\* It is also the rule that no amendment or alteration of a money Bill or Act which in any way imposes a fine or a pecuniary burthen on the people, can be proposed by either of the other two Branches, or received from them in the House of Assembly. Any attempt of the kind, though even inadvertently made, is sure to be treated as an infringement of the privileges of the Representatives of the people, who alone are to exercise the right of granting to public purposes the money or property of their constituents. The Assembly is res-

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\* Vide Royal Instructions as to the Initiation of such money grants.

trained from appropriating to the general service of the Colony any part of the public money, unless the same be previously recommended, or asked for by the Governor.

§ 84. The Speaker presides over the House of Assembly; he must be a Member chosen from among the rest by the majority of votes. The Clerk takes these votes, and declares the election; he is then conducted to the Chair, but before he acts further in that capacity, he is presented to the Governor, and, having been approved of by him, he then enters upon his duties.

§ 85. The Speaker sits in the Chair, and takes the votes in all the more formal and regular proceedings. When in the Chair, he reads the Resolution or other matter, or directs the Clerk to do so. He puts the question, reckons the members on both sides, and declares the result. While in the Chair, he takes no part in any discussion, but interposes occasionally on incidental questions regarding the order and decorum of the proceedings. In all questions concerning the forms of the House, he acts as the judge, unless their novelty or importance induce the House to refer them to its Standing Committee of Privileges. The Speaker gives no vote while in the Chair, except the Members present are equally divided, and then he gives the casting vote, which, in money questions, is to be given against granting money.

§ 86. In all cases, a simple majority decides the question. Those votes are given openly, and



*viva voce*, and each member is entitled, if he thinks fit, to state the reasons that sway him, taking care not to speak more than twice to the same question in the House, that means, the Speaker presiding.

§ 87. He being out of the Chair, and the House in Committee, the members may speak to any question, as often as the Committee is disposed to hear them.

§ 88. When a seat becomes vacant, by the death of a Member, or otherwise, the House directs the Speaker to communicate the fact, by letter, to the Governor, and to request him to cause a Writ to be issued to fill up the vacancy.

§ 89. The manner of passing Bills is nearly the same in both the Chambers. If the Bill be of a private nature, a petition must be first presented by a Member, and then leave obtained of the House to prepare and bring in the Bill; a Committee of three or four is generally named to prepare it.

§ 90. A public Bill is either introduced by a Member, who asks for leave to present it, on which it is usually read a first time as a matter of course, or (as frequently practised when it is wished to pass an Act of importance) a large and respectable Committee is appointed to prepare the draft of a Bill; the Chairman of the Committee usually draws it up and submits it to the other Committee-men, and when it is modeled to the satisfaction of a majority of the Committee, the Chairman offers it to the House, as the re-

sult of their labors. This saves much trouble. It is then read a first time. The Bill when first read, has generally a number of blanks in it for sums of money, periods of time, and everything that is dubious, or on which difference of opinion is most probable. Its progress through the House is divisible into five distinct stages—the 1st and 2d reading — commitment, — 3d reading, and — motion that it pass. Sometimes it is committed on the first reading, and sometimes it is not committed at all—as where, on the 2d reading, there is no objection to the Bill, nor any blank to fill up. The House frequently permits the reading of the Title to stand for the reading of the whole Bill; this is to save time.

§ 91. At any of these stages, a Bill may be opposed; but it is usual to debate on the second reading, if the general object of the Bill is disputed. After the second reading, the House takes it up again, when in Committee of the whole House, to consider such Bills as have passed the second reading; and in this Committee the several clauses of the Bill are minutely considered and adopted, altered, or rejected, and the blanks are filled up.

§ 92. To form the Committee of the whole House, the Speaker leaves the chair, and may take a part as an ordinary member, the chair being filled by another member appointed for that purpose. After it has gone through Committee, the Chairman reports it to the House with any amendments that may have been agreed to, and then the House reconsiders the whole Bill again, and the question is repeatedly put upon every clause and amendment.

§ 93. When the House has agreed or disagreed to the amendment of the Committee, and sometimes added new amendments, it is ordered to be engrossed—that is fairly copied out as altered. When that is done, it is read a third time, when also amendments may be made to it, and if a new clause be then added it is called a Rider. The Speaker then recapitulates the stages through which it has passed, and puts the question that it do pass. If this is agreed-to, the title is then settled, and the Bill goes up from the House to the Legislative Council for their concurrence.

§ 94. When the Bill goes up to the Council, it there passes through the same forms it did in the other House, except that it is not again engrossed, and if rejected, no more notice is taken, but it passes *sub silentio* to prevent useless altercation. If agreed to, the master in Chancery, or Clerk of the Council, delivers a message to that effect at the bar of the House; and if agreed to with amendments, the amendments are sent down in writing with the Bill.

§ 95. When the two branches differ in opinion as to any clause or Bill, or other matter that is supposed capable of being adjusted by mutual explanation, the course is to hold a conference between a select Committee of each House, who receive instructions and report what has been said; but these Committees have no power to conclude any arrangement, that being left to the vote of the respective branches.

§ 96. The same forms, *mutatis mutandis*, are observed when a Bill originates in the Legislative Council.

§ 97. The House of Assembly claims and exercises the sole right of originating all Bills of supply and extends the principle to every Bill, imposing any tax, charge, or pecuniary penalty, and it is the rule of the House of Commons that all sums granted to the Crown shall be fixed in the Committee of Supply, which is a Committee of the whole.

§ 98. The Chairman of the Committee of Supply, when the members are equally divided on a question respecting the grant of a larger or less sum of money, or the longer or shorter time for its liquidation, is to put the question, first for the less sum, and so for the longer time. 3 Hats. 183. 184.

§ 99. In Bills which are intended to raise Revenue, the Council are not to make any amendments, except it might be to correct a verbal or literal mistake. 3. Hats. 153. 154.

§ 100. In other Bills containing pecuniary penalties or impositions, they are not to alter the sums, the management or disposal of them. 3. Hats. 154. 155.

§ 101. In the consideration of questions not connected with Bills it is usual to resolve the House into a Committee of the whole; such are the ordinary Committee of ways and means, in which the revenue is annually settled, and the Committee on private petitions. The same course exists in considering of Addresses to the throne, or adopting such as have been prepared by Committees. Select Committees are frequent, and prepare and arrange most of the business for

the consideration of the House. They are generally authorized to send for persons and papers, and take evidence (without oath).

§ 102. The regal assent is given usually by the Governor, as the Representative of Her Majesty, and for this purpose, the Governor, Legislative Council, and House of Assembly, usually meet once before the close of the Session, in order to pass those Bills into Law, which have been agreed upon during the Session.

§ 103. At the close of the Session, the Supply Bill, and such others as are ready, are assented to by the Governor.

The Clerk of the Council, or Master in Chancery, reads the title of each Bill, and hands it to the Governor, who thereupon says, "I assent to this Bill."

§ 104. Bills with a clause suspending their operation, until Her Majesty's pleasure is known, receive their confirmation by notice from the Secretary for the Colonies to the Governor, who makes it known to the Legislature and the public. Sometimes the Governor reserves a Bill himself, for the pleasure of Her Majesty; but this is rarely done.

§ 105. The Acts when passed, are published in the *Royal Gazette* and copies are also transmitted by the Governor to the Colonial Office, in England, where the Acts undergo investigation by the Law Officers of the Crown.

§ 106. A Colonial Act has the same effect in the Colony, that an Act of Parliament has in England.

§ 107. By an Act of the Legislature of the Colony passed in 1834, being the 4th Will. 4. cap. 21. it is provided, that the Clerk of the Legislative Council shall indorse in English, on every Act of Parliament of this Island which shall thereafter be passed, the day, month, and year, when the same shall have been passed; and that such indorsement shall be the date of its commencement, unless where it contains a particular commencement.

§ 108. Each House can adjourn itself from day to day, or for one or more days, by its own authority; the adjournment of one House does not affect the other; after adjournment, when met, business is taken up in the stage, where it was left off on the preceding day.

§ 109. Prorogation continues the Assembly from Session to Session. It is made by the President of the Legislative Council, in the presence and by the order of the Governor, and a day is then mentioned for the next meeting of the Assembly. This day is usually postponed by proclamations at several periods, until the usual time of meeting, the last proclamation expressing the day of assembling. "for the dispatch of business."

§ 110. It is the duty of the Governor to call the Legislature together, to dispatch business once in every year.

§ 111. Both Houses are of necessity prorogued at the same time.

§ 112. The Session cannot be otherwise terminated, but by prorogation; however in construc-

tion of Law, if no Bill be passed or judgment pronounced, there is no Session—the effect of prorogation is such, that all Bills begun and not perfected must be resumed *de novo* (if at all) at any subsequent Session.

§ 113. The Governor can prorogue the General Assembly, during its adjournment, or at any time, and prorogation is effected in Law, by a Writ issued and tested before the day of-meeting of Parliament, discharging the members from their attendance at that day, and appointing another for them to meet. This is usually done by proclamation. \* See 1 *Chalmer's opinions* 234 236.

§ 114. Dissolution takes place by the command of the Governor, expressed in person to the other branch, or by proclamation. †

\* If the Members neglect to attend on the day appointed for the meeting of the General Assembly, or on a day to which they are adjourned, the Governor cannot issue new Writs without a dissolution. 1 *Chalmer's opinions*, 270 271.

† The change of Governors does not dissolve the General Assembly. 1 *Chalmer's opinion*, 241. And although a Governor be superseded by a new Commission to another, yet all Laws passed and other official Acts, done by him, before notice of his dismissal &c., will be valid. *Ibid* 238.

OF THE EXECUTIVE POWER  
OF  
THE CONSTITUTION.

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1. *The Governor.*
  2. *The Executive Council.*
- 

1.—THE GOVERNOR.

§ 115. *The Executive Power* is that which is charged with superintending the Execution of the Laws.

When, with reference to any object whatever, the Government desires to declare its pleasure or will, a Law must be passed to that end, which can only emanate from the Legislative Power; but all things which are the result, the consequence, and appertain to the execution of a Law already made, of a will already expressed, of a resolution already taken by the Legislative Power, enter into the circle of the privileges of the Executive authority. For example, no other than the Legislative authority can decide, if taxes shall be imposed, augmented, or diminished; but once that these taxes have been determined and fixed by the Legislative authority, the care of collection and the administrative superintendence, and the rules and orders, which affect their collection, are absolutely dependent on the Executive Power.

The promulgation of the Laws also appertains to that power.



§ 116. The Executive Power in this Colony is in the hands of a *Governor*, assisted by a Council which he chooses for himself.

The Executive Power is in some sort a branch of the Legislative Power.

§ 117. The Governor, as Representative of the Queen, constitutes one of the branches of the Legislature; and the Ministers who advise him have seats either in the Assembly or Legislative Council, when they attend during the Session in order to explain to these two branches of the Legislature the measures of the Government.

§ 118. The Executive Power must so combine its action, as to be able always to be sustained by a majority of the two chambers.

§ 119. The name *Council* is given to the meeting of the Councillors; that of *Cabinet* is given to the Councillors considered as an advising body; that of *Ministry* to the Councillors who are considered as responsible; that of *Administration* to the Councillors when sometimes taken in conjunction with others; and that of *Government* to the Members of the administration, including the Governor.

§ 120. The Governor performs all the functions of the regal office, necessary to the well being of the Colony, subject to such instructions from the Crown, as may be furnished him from time to time.

§ 121. Those instructions, which were established as rules for the guidance of the Colonial Executive, before the representative constitution was granted to this Colony, stand upon a different

footing from those of more recent date, and having been promulgated by what was then the sole Legislative and Sovereign Power in the Colony, assume the character of Laws and the groundwork of its constitution. Since the Assembly was called into existence, it must be allowed, that the powers and prerogatives of the Crown have been lessened considerably, and that any instructions, since that period can only be considered as the Acts of an Executive Government, and limited by the rules which circumscribe the prerogative in the mother country.

§ 122. From the year 1578 down to the year 1825, the management and administration of the affairs of Newfoundland were intrusted by the Crown of England to the various *Floating Admirals* and *Naval Governors*, who were, during that interval temporarily appointed for that purpose.

§ 123. In the year 1825, Capt. Sir Thomas Cochrane assumed the reins of civil Government in this Island.

From the commencement of his administration, may be dated the permanent settlement of the Colony and of its civil and political institutions.

§ 124. The Governor or Administrator, must be sworn into office at the Executive Council Board, taking the Oaths of Allegiance, &c., as directed in the Royal Instructions, before he enters on his administration; his swearing in is usually performed by the Chief Justice, and is the regular form by which the Governor is recognized, after which, he sits in the Chair of State, or Throne, in the Council Chamber.

§ 125. The Governor, on his arrival in the Colony must, (agreeably to the directions of his Commission and Instructions), in the first place, cause his Commission as Governor, Commander in Chief, &c., to be read and published at the first meeting of the Council, and also, in such other manner as hath been usually observed on like occasions. In the next place, he must take the Oaths of Office, and administer the same to each of the Council."—*Stokes on the Colonies*, 177.

§ 126. If a military man, he is Captain-General of the Forces; he is also one of the constituent parts of the Legislature; he has the power of convening, adjourning, proroguing, and dissolving the General Assembly; he may also give or refuse his assent to any Bill which has passed the Legislative Council and Assembly.

§ 127. He has also the disposal of such emoluments as Her Majesty does not dispose of herself, and with regard to such offices as are usually filled by the immediate appointment of Her Majesty, compatible with the principles of Responsible Government, if vacancies happen, by death, or otherwise, the Governor provisionally appoints to such offices, until they are filled up according to the constitution.

§ 128. The Governor has the custody of the Great Seal of the Island, and is Ordinary within his Government. He is usually named first in the Standing Commission issued under the 11th and 12th William 3d, cap. 7, for the more effectual suppression of Piracy.

§ 129. Although he is generally Vice-Admiral in the Colony, he does not preside in the Court of Vice-Admiralty therein, there being a Judge of that Court appointed by Royal authority, resident in the Island.

§ 130. In time of War, Commissions to Privateers may be issued by the Judge of that Court, by virtue of a Warrant from the Governor.—*Stokes*, 184, 185.

§ 131. The Governor retains his office during the Queen's pleasure, and in case of oppression, or other misconduct, (on complaint by petition,) he may be removed by the Queen in Council.

§ 132. On absence without leave, or misbehaviour, any Officer in the Government is removable by the Governor and Council, who are authorized to give leave of absence, when necessary. The Governor is generally directed to report every leave of absence thus given within a week or fortnight after granting it.

§ 133. If it is not confirmed in England by the Government within a month or so after the report is received, the Officer having leave is to return at once to his station, or vacate office.

§ 134. As the office of Governor is in the nature of Vice-Roy, representing the Majesty, as well as the authority of the Crown, he is, therefore, locally, during his administration, not amenable in that capacity, to any civil or criminal tribunal in the Colony.

§ 135. "So that, emphatically, the Governor must be tried in England, to see whether he has exercised the authority delegated to him by letters patent, legally and properly, or whether he has abused it, in violation of the Laws of England and the trust reposed in him."—*Mostyn v. Fabrigas*, 1 Cowper, 172, 173.

§ 136. The British Statute of the 42d G. 3, cap. 85, authorizes the Court of Queen's Bench, in cases where oppression is proved against the Governor, to adjudge him incapable of serving the Crown afterwards in any civil or military capacity, and it enables the Queen's Bench to issue a *Mandamus* to the Colony, or a neighbouring one, directing the Colonial Court to take the Evidence, on charges of this nature.

§ 137. The Governor appoints the Councilors and the different public officers of the Colony, on vacancies occurring, subject of course, to the principles of the constitution. He also has the power of suspending such Officers upon sufficient cause.

§ 138. He has authority to grant pardon in criminal matters, and to remit "offences, fines and forfeitures."

§ 139. In case of the decease or absence of the Governor from the Colony, the duties of his office are performed by the Administrator of the Government; hitherto in the absence of the Governor, (there being no Lieutenant Governor in the Island) the duties of Administrator have been performed by the Colonial Secretary.

§ 140. For further information on this important subject, the reader is referred to the Governor's Commission and the Royal Instructions issued on his appointment to the Government of this Island.

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THE EXECUTIVE COUNCIL—ITS COMPOSITION—ITS PRIVILEGES.

§ 141. The Executive Council is composed of a certain number of Councillors, chosen by the Governor, in order to assist in the administration of the affairs of the Colony. By the Royal Instructions recently received by the Governor of this Island, he is authorized to appoint an Executive Council to assist him in carrying on the Government; this Council is to consist of seven members who are to hold their appointments at that board during the Sovereigns pleasure. The Governor is obliged to transmit to the Queen, through one of the Secretaries of State exemplifications of all such Instruments as he shall issue for the appointment of the members of the Executive Council. He is also to communicate to the Council the Royal Instructions and all such other Instructions of the like kind, wherein their advice is stated to be required, they are to have freedom of debate and to vote in all matters of public concern in the Council.

When, in consequence of the resignation or retirement of a *Ministry* the Governor is obliged to form a new one, he ordinarily sends for one of the chief or leading members of the opposition, to whom he confides the duty of making a choice of persons to fill the places of those who may have

retired. It is this member who is called the *Premier*, or first Minister.

§ 142. The number of Councillors is limited; but the Council is generally composed of the chiefs or heads of principal departments; as the Colonial Secretary, Receiver General, Surveyor General, Attorney General, and Solicitor. There is also a President of Council. Some other important persons, belonging also to the Legislature, may some times be called to the Council, when their talents may be of great service to the Government: But the Council should always be so constituted, as to have the support and confidence of a majority of the representatives of the people.

§ 143. The Councillors have an Oath to take upon entering upon their functions. They swear among other things, to advise the Governor according to the best of their judgment and discretion, and to act with impartiality by laying aside all fear, favor, and affection.

§ 144. The Councillors assemble and sit from time to time according as circumstances require it: But they cannot proceed to business without being first summoned by the Governor; nor unless three of that body be present and assisting at any meetings at which business is to be transacted.

The Governor may dissent from the opinions of the majority or of the whole of the Council, upon any question submitted to their consideration.

The members of the Executive Council can in any case record at full length in their minutes,

the grounds and reasons of any advice or opinion they may give upon any question brought under the consideration of that body.

The Governor has power to appoint one member of the Executive Council to preside over its proceedings in his absence and he can remove him and appoint another in his place; and in case of the absence of such member, then the senior member of the Council present presides, the seniority of the members of that body being regulated according to the order of their respective appointments.

The Executive Council is required to keep a full and exact Journal of all its proceedings. And at each meeting, the minutes of the previous one are first read before proceeding to any other business.

§ 145. They have to occupy themselves, in general, with all the affairs of the Colony. Applications and demands of every description are placed under their consideration.

§ 146. Any matter that has reference to a particular department, is referred to the chief of that department, who makes thereon, in most cases, a report to the Council, at one of its subsequent sittings. It is in Council that, appointments are discussed, and that claims of individuals for moneys, &c., are established.

§ 147. Councillors possess perfect freedom of speech in Council.

§ 148. The ministerial measures which are to be presented for the approval of the Legisla-



tive Chambers, are there discussed and modified, so as to meet the views of all the Members of the Council, who are charged with bringing them forward, explaining, and defending them before the Representatives and the Legislative Council.

§ 149. If any one of the Councillors cannot subscribe to a measure presented by his colleagues, he is expected to retire.

§ 150. The sittings of the Executive Council are always under the presidency of the Governor in person. But the Councillors, under the name of "Committee of Council," deliberate previously upon the matters referred to them, when they prepare reports or memoranda for the Governor, upon important subjects.

§ 151. In accordance with the advice of his Councillors, the Governor nominates to employments, deposes public functionaries, receives and accepts resignations. In concert with them, he directs all public affairs, and sees that the Laws are properly and faithfully executed.

§ 152. The Council are named, in every Commission of the Peace, as Justices of the Peace throughout the whole Colony.

§ 153. The right to nominate to employments resides constitutionally in the Governor, who can exercise it independently; but the retirement of the Executive Councillors, whom the Parliament hold responsible, would be an immediate consequence of non-consultation with them.

§ 154. Under the former system of Government which recently existed in this Colony, the Governor did not consider himself bound to choose his Councillors or advisers from the men who enjoyed the confidence of the Representatives of the people, which was the cause of the antagonism which prevailed for so long a time, between the Assembly and the Council of this Colony.

§ 155. The establishment of Responsible Government has had for its object to remedy this evil, by obliging the Governor to chose his Councillors from among the men who possess the confidence of the people, or at least a majority of their Representatives, so as to cause to reign between the different branches of the Legislature and of the Government, that harmony necessary to promote the prosperity of the Colony.

# APPENDIX.

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## RULES AND REGULATIONS OF THE LEGISLATIVE COUNCIL, OF NEWFOUNDLAND.

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### I.

§ 155. The President, when he speaks to the House, is always to be uncovered, and is not to adjourn the House, or do anything else as mouth of the House, without the consent of the Members first had, excepting the ordinary things about Bills, which are of course, wherein the Members may likewise overrule, as for preferring one Bill before another, and such like. And in case of difference among the Members, it is to be put to the question; and if the President will speak to anything particular, he is to go to his own place as a Member.

### II.

§ 156. That immediately after the President shall have taken the Chair, the doors shall be closed, and the Journals of the preceding day be always read and confirmed, or if necessary, corrected.

## III.

§ 158. That any Member may, at any time, desire the House to be cleared of strangers, and the President shall immediately give directions to execute the order, without debate.

## IV.

§ 159. When the House is sitting, every Member that shall enter, is to give to and receive salutations from the President, and not to sit down in his place unless he has made his obeisance.

## V.

§ 160. The Members in the House are to keep their dignity and order, in sitting, as much as may be, and not remove out of their places without just cause: but when they must needs go across the House, they are to make obeisance to the Chair.

## VI.

§ 161. When any Members speak, they address their speech to the Chair.

## VII.

§ 162. No Member is to speak twice to any Bill, at any one time of reading it, or to any other proposition, unless it be to explain himself in some material point of his speech, but no new matter, and that not without leave of the House first obtained. Every Member speaks standing and uncovered, and names not the Members of the House commonly by their names, but "the Member that spoke last"—"last but two," ect:—or some other note of distinction.

## VIII.

§ 163. That such Members as shall make protestations, or enter their dissents to any votes of the House, as they have a right to do, without asking leave of the House, either with or without their reasons, shall cause their protestations or dissents to be entered in the Clerk's Book on the next sitting day of this House, before the rising of this House, otherwise the same shall not be entered; and shall also sign the same before the rising of the House on the same day.

## IX.

§ 164. That all Orders of the Day, which by reason of any adjournment shall not have been proceeded upon, shall be considered only as postponed to the next day on which the House shall sit.

## X.

§ 165. To prevent misunderstanding, and for avoiding offensive speeches when matters are debating, either in the House or at Committees, it is for honor's sake thought fit, and is so ordered, that all personal, sharp, or taxing speeches be foreborne, and that whosoever answereth another man's speech shall apply his answer to the matter without wrong to the person; and as nothing offensive is to be spoken, so nothing is to be ill-taken, if the party that speaks it shall presently make a fair exposition or clear denial of the words that might bear an ill construction; and if any offence be given in that kind, as the House itself will be very sensible thereof, so it will censure the offender, and give the party offended a fit reparation and a full satisfaction.

## XI.

§ 166. That for avoiding all mistakes, unkindness, or other differences, which may grow to quarrels tending to the breach of the Peace, if any Member shall conceive himself to have received an affront or injury from any other Member of the House, either in the House, or at a Committee, or in any of the rooms belonging to the Legislative Council, he shall appeal to the House for his reparation; which if he shall not do, but occasion or entertain quarrels, declining the justice of the House, then the Member that shall be found therein offending shall undergo the severe censure of the House.

## XII.

§ 167. That when a question is under debate, no motion shall be received in the House, unless to amend it, commit it, postpone it to a certain day, or for the order of the day, or to adjourn.

## XIII.

§ 168. That two days' notice of all motions, deemed special, be given to the House; and any motion (with leave of the House) may be withdrawn at any time before amendment or decision.

## XIV.

§ 169. That no motion prefaced by a written preamble, shall be received by this House.

## XV.

§ 170. That when the question hath been entirely put by the President, no Member is to speak upon the question before voting.

## XVI.

§ 171. That after the question is put, and the House hath voted thereon, no Member shall depart out of his place until the House hath entered upon some other business.

## XVII.

§ 172. That at votes, the contents-do rise in their places, and the non-contents continue to sit; and that the contents and non-contents shall be taken and entered on the minutes at the request of any one Member.

## XVIII.

§ 173. That the Clerk is to enter no order until the President first demand the assent of the House; and the Clerk is to read every order first in the House, before it be entered.

## XIX.

§ 174. That each Member has a right to require that the question, or motion, in discussion, be read for his information, at any time of the debate.

## XX.

§ 175. To have more freedom of debate, and to facilitate business, Committees are appointed, either of the whole House, or of individuals; Committees of the whole House sit in the House, but then the President sits not in the Chair.

## XXI.

§ 176. That in a Committee of the whole House, the Rules of the House shall be observed

in so far as they may be applicable, excepting the Rule limiting the times of speaking; and that no motion for the previous question, or for adjournment, can be received, but a Member may, at any time, move that the Chairman do leave the Chair, or report some progress made, and ask leave to sit again.

## XXII.

§ 177. That Select Committees usually meet in one of the Committee Rooms, as the Members like. The Members of the Committee speak to the rest uncovered, but may sit if they please.

## XXIII.

§ 178. At any Committee, Members of the House, though not of the Committee, are not excluded from coming in and speaking, but they must not vote; they shall also give place to all that are of the Committee, and shall sit behind them.

## XXIV.

§ 179. When anything that hath been committed is reported, the Members of the Committee stand up.

## XXV.

§ 180. No man is to enter at any Committee or Conference unless it be such as are commanded to attend, but such as are Members of the House, upon pain of being punished severely, with example to others.

## XXVI.

§ 181. That no Message from the Assembly be received in this House, with a Bill or other-



wise, unless the object of it be expressed verbally, as hath hitherto been practised.

### XXVII.

§ 182. When notice is given to the House by the Usher of the Black Rod, that a Message or Deputation is sent by the House of Assembly, they attend until the House is prepared to receive them; he being seated, they are then admitted. On their coming up to the Bar with three obeisances, the President goes down to the Bar, and receives their Message uncovered; the Message is then read and delivered to the President by one of the Members of the Deputation: on their retiring with three obeisances to the House, the President resumes the Chair, and standing uncovered, reports the Message for the information of the Members: the House then resumes the business it had before it.

### XXVIII.

§ 183. None are to speak at a Conference with the Lower House, but those that be of the Committee; and when any thing from such Conference is reported, all the Members of that Committee present are to stand up.

### XXIX.

§ 184. As it might deeply intrench on the privileges of this House for any Member to answer an accusation in the House of Assembly, either in person or by sending his answer in writing, or by his Counsel there; upon serious consideration had thereof, and perusal of the precedents in the Upper House of the Imperial Parliament, it is ordered, that no Member of this House

shall either go down to the House of Assembly, or send his answer in writing, or appear by Counsel to answer any accusation there, upon penalty of being committed to the Black Rod, or to prison during the pleasure of this House.

XXX.

§ 185. That no Member or Officer of this House, without leave of this House, shall, by order of the Assembly, go into that House, whilst the House or any Committee of the whole House is sitting there; or appear before any Committee of that House sitting there or elsewhere.

XXXI.

§ 186. That the Members of the Assembly be admitted as auditors of the debate of this House, or any other persons introduced by a Member of this House.

XXXII.

§ 187. That it is the right of every Member of this House to bring in a Bill, and pray that it may be read.

XXXIII.

§ 188. Bills may be opposed at any stage, but the principle is usually debated at the second reading.

XXXIV.

§ 189. That no arguments against the principle of a Bill shall be had or admitted in any Committee of the whole House upon such Bill.

## XXXV.

§ 190. That no Bill shall be read twice on the same day; unless the House, upon motion, shall see special cause for the despatch of business to change the same course in any particular instance.

## XXXVI.

§ 191. That in a Committee of the whole House, a Member may, at any time previous to a Bill being passed entirely, that is to say, all the clauses, preamble and title of the same, move to have any particular clause thereof, that may have been passed, re-considered.

## XXXVII.

§ 192. That to annex any clause or clauses to a Bill of Aid or Supply, the matter of which is foreign to and different from the matter of the said Bill of Aid or Supply, is unparliamentary.

## XXXVIII.

§ 193. That proof be required that a public notification of the intention of any person or persons to apply to the Legislature for its interference respecting any local matter, had been affixed to the doors of the several Churches, Chapels, or Places of Public Worship of the town or place to be affected, or where the premises in question shall lie, for three successive Sundays, before such application shall be made: Provided, that as to any such application with reference to any local matter in the District of St. John's, publication of such notification shall be also given in the Newfoundland *Royal Gazette* for three successive weeks immediately preceding such application.

## XXXIX.

§ 194. That every Petition which is brought up shall lay on the table one day before it is read.

## XL.

§ 195. That the allegations in every Petition for a Private Bill, meant to originate in this House, shall be first referred to a Select Committee, and the matter thereof reported upon, before the introduction of any such Bill.

## XLI.

§ 196. That every Member who shall introduce a Bill, Petition, or Motion, upon any subject which may be referred to a Committee, shall be one of the Committee without being named by the House.

## XLII.

§ 197. That when a Private Bill is brought from the other House, the principle of which is admitted, this House, by Message, may either request a communication of the evidence received in proof of the allegations or matter whereon the Bill is founded, or the Committee of this House to whom it may be referred, shall examine the said allegations, and on reporting the Bill, state whether the same or matter thereof be founded, and whether the parties concerned in interest or property therein, have given the consents to the satisfaction of the Committee.

## XLIII.

§ 198. That the foregoing be considered a standing instruction at all Committees who shall

meet upon Private Bills; and further, that they require all Persons, whose, interest or property they shall consider to be affected thereby, to appear in person before them, to give their consent thereto; and if they cannot personally attend, they may send their consent in writing, which shall be proved to the satisfaction of the Committee; and that when any Committee shall be appointed on a Private Bill, notice thereof shall be set up in the lobby of this House seven days before the meeting of the said Committee.

#### XLIV.

§ 199. That when a Bill originating in this House, has once passed through its final stage in this House, no new Bill for the same object can afterwards be originated in this House during the same Session.

#### XLV.

§ 200. That for the future, no motion shall be granted for making any order of this House a standing order, or for dispensing with a standing order, the same day it is made, nor before the Members of this House in town shall be summoned to consider of the said motion.

#### XLVI.

§ 201. That any Member of this House being desirous to introduce any Bill, shall be at liberty to call upon the Master-in-Chancery, attendant upon this House, to digest and draft the same.

#### XLVII.

§ 202. That all adjournments of this House shall be duly noted in the Journals thereof by the

Clerk; and no Member shall absent himself from the regular meetings of the House without leave first duly obtained.

#### XLVIII.

§ 203. That in all cases not provided for in the foregoing Rules in reference to the introduction and management of Bills, Messages and all matters of routine, the practice of the Imperial Parliament shall be observed so far as the same may be applicable.

#### XLIX.

§ 204. That in the absence of the President the Chair shall be taken by the Senior Member present.\*

#### L.

§ 205 FEES ON PRIVATE BILLS.

*See Journal, 3d Session 5th General Assembly, 1854. Page 38.*

[Approved.]

C. H. DARLING, Governor.

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\* By the Royal Instructions, five members constitute a Quorum for business.

**RULES AND ORDERS**  
**OF**  
**THE HOUSE OF ASSEMBLY**  
**OF**  
**NEWFOUNDLAND.**

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**I.**

§ 206. That Ten Members shall form a Quorum.

**II.**

§ 207. That when the House adjourns, the Members shall keep their seats until the Speaker leaves the Chair.

**III.**

§ 208. That whenever an adjournment takes place for want of a Quorum, the hour at which such adjournment is made, and the names of the Members present shall be inserted in the Journals; but no adjournment, for want of a Quorum, shall take place until the lapse of Thirty minutes after the hour at which the House was appointed to meet.

**IV.**

§ 209. That every day, immediately after the Speaker shall have taken the chair, the minutes of the preceding day shall be read by the Clerk, to the end that any mistake therein may be corrected by the House.

## V.

§ 210. That during the reading of the minutes the doors shall be closed.

## VI.

§ 211. That the Speaker shall preserve order and decorum, and decide questions of order, subject to an appeal to the House.

## VII.

§ 212. That the Speaker shall take the Chair when the Black Rod is at the door.

## VIII.

§ 213. That the Speaker shall not take part in any debate, or vote, unless the House shall be equally divided, in which case he may give his reasons for so voting, standing uncovered.

## IX.

§ 214. That when the Speaker is called upon to decide a point of order or practice, he shall state the rule applicable to the case.

## X.

§ 215. That every Member, previous to his speaking to any question or motion, shall rise from his seat uncovered, and address himself to the Speaker.

## XI.

§ 216. That when two or more Members rise at once, the Speaker shall name the Member who is first up, subject to appeal to the House.



## XII.

§ 217. That every Member who shall be present when a question is put, shall vote thereon, unless the House shall excuse him, or unless he be personally interested in the question, provided such interest is resolvable into a personal pecuniary profit, or such as is peculiar to the Member, and not in common with the interest of the subject at large, in which case he shall not vote.

## XIII.

§ 218. When the Speaker is putting a question no Member shall walk out, or across the House; nor when a Member is speaking, shall any other Members hold discourse which may interrupt him, nor pass between him and the Chair.

## XIV.

§ 219. That a Member called to order shall sit-down, unless permitted to explain, and all debate on the question of order shall take place before the decision of the Speaker.

## XV.

§ 220. That no member shall speak beside the question in debate.

## XVI.

§ 221. That any Member may of right require the question, or motion, in discussion to be read for his information, at any time during the debate, but not so as to interrupt a Member speaking.

## XVII.

§ 222. That no member, other than the one proposing a question or motion (who shall be per-

mitted a reply) shall speak more than once on the same, without leave of the House, except in explanation of a material part of his speech, which may have been misconceived, but then he is not to introduce new matter.

### XVIII.

§ 223. That any Member may at any time desire the House to be cleared of strangers, and the Speaker shall immediately give directions to the Serjeant-at-Arms to do so without debate.

### XIX.

§ 224. That all Messages from this House to the Legislative Council be sent by two Members, to be named by the Speaker, accompanied by the Serjeant-at-Arms.

### XX.

§ 225. That when the House shall judge it necessary to request a conference with the Legislative Council, the reasons to be given by this House, upon the subject of the conference, shall be prepared and agreed to by the House, before the Messengers shall be appointed to make the said request.

### XXI.

§ 226. That the Rules of the House shall be observed in Committee of the whole, so far as they may be applicable, except the Rule limiting the times of speaking.

### XXII.

§ 227. That in forming a Committee of the whole House, before leaving the Chair, the

Speaker shall appoint a Chairman to preside, subject to appeal to the House.

### XXIII.

§ 228. That every Member who shall introduce a Bill, Petition, or motion upon any subject which may be referred to a Committee, shall be one of the Committee without being named by the House, except in cases of controverted Elections.

### XXIV.

§ 229. That of the number of Members appointed to compose a Committee, such number thereof as shall be equal to a majority of the whole number chosen shall be a quorum competent to proceed to business.

### XXV.

§ 230. That in a Committee of the whole House, a motion that the Chairman leave the Chair, shall always be in order, and take precedence of every motion, and that when the motion is made on account of any question of order or privilege arising, the Speaker shall resume the Chair without discussion or vote of the committee.

### XXVI.

§ 231. That in Committee of the whole House all motions relating to the matter under consideration shall be put in the order in which they are proposed.

### XXVII.

§ 232. That the Yeas and Nays shall be taken and entered on the minutes at the request of any one Member.

## XXVIII.

§ 233. That one day's notice shall be given of all motions for introducing new matter, other than matters of privilege and bringing up petitions.

## XXIX.

§ 234. That a motion to adjourn shall always be in order.

## XXX.

§ 235. That after a motion is read by the Speaker, it shall be deemed to be in the possession of the House, but may be withdrawn at any time before decision or amendment, with permission of the House.

## XXXI.

§ 236. That a motion for commitment, until it is decided, shall preclude all amendment of the main question.

## XXXII.

§ 237. That if any motion be made for any public aid, subsidy, duty, or charge upon the people, the consideration and debate thereon shall not presently be entered upon, but adjourned till such further day as the House shall think fit to appoint, and shall be referred to a Committee of the whole House, and their opinion reported before any resolution or vote of the House do pass thereon.

## XXXIII.

§ 238. That it is the right of every member of this House to bring in a Bill and pray that it may be read.

## XXXIV.

§ 239. Bills are seldom opposed at the first reading, but are generally committed, upon motion, at the second reading, at which time the principle is usually debated.

## XXXV.

§ 240. That no arguments against the principle of a Bill shall be had or admitted in any Committee of the whole house upon such Bill.

## XXXVI.

§ 241. That no Bill shall be read twice on the same day; that no Committee of the whole house shall proceed on any Bill on the same day in which the Bill is committed, unless the house, upon motion, shall see special cause for the same.

## XXXVII.

§ 242. That when a bill or petition is read in the house, the Clerk shall certify the readings and the time on the back thereof.

## XXXVIII.

§ 243. That in a Committee of the whole House a member may, at any time previous to a bill being passed entirely—that is to say, all the clauses, preamble, and title of the same—move to have any particular clause thereof that may have been passed, re-considered.

## XXXIX.

§ 244. That the allegations in every Petition for a Private Bill, meant to originate in this House, shall be first referred to a Select Committee, and the matter thereof reported upon, before the introduction of any such Bill.

## XL.

§ 245. That when a Private Bill is brought from the other House, the principle of which is admitted, this House, by Message, may either request a communication of the evidence received in proof of the allegations, or matter whereon the Bill is founded, or the Committee of this House, to whom it may be referred, shall examine the said allegations, and on reporting the Bill, state whether the same, or matter thereof, be founded, and whether the parties concerned in interest or property therein, have given their consents, to the satisfaction of the Committee.

## XLI.

§ 246. That the foregoing be considered a standing instruction at all Committees who shall meet upon private Bills, and further, that they require all persons whose interest or property they shall consider to be affected thereby, to appear in person before them, to give their consent thereto; and if they cannot personally attend they may send their consent in writing, which shall be proved, to the satisfaction of the Committee; and that when any Committee shall be appointed on a private Bill, notice thereof shall be set up in the lobby of this House Twelve days before the meeting of the said Committee.

## XLII.

§ 247. That when any Bill, originating in this House, has once passed through its *final stage* in this House, no new Bill of the same matter and argument, can afterwards be originated of this House during the same Session.

**XLIII.**

§ 248. That when any Bill shall be brought down to this House from the honorable the Legislative Council, or when any Bill sent up from this House to the Legislative Council shall be returned with amendments, such Bill so brought down, or the amendments, shall undergo the same readings and formal consideration, and the same shall be committed, and be subject to the same order, form, and stages, as are observed upon Bills originating in this House.

**XLIV.**

§ 249. That every public Bill shall be introduced by a motion for leave, specifying the object of the Bill; or by a motion to appoint a Committee to prepare and bring it in; or by any order of the House, on the report of a Committee; and that every private Bill, after the present session, shall be founded on a petition, notice of the intention of the petitioners having been inserted in the *Royal Gazette* for the period of one month previous to the meeting of the Legislature.

**XLV.**

§ 250. That all Petitions to be introduced, shall be brought in immediately after the minutes are read, and that such Petitions shall be read by the Clerk, after the third reading of any Bills that may stand for that purpose on the order of the day.

**XLVI.**

§ 251. That all orders of the day, which, by reason of any adjournment, shall not have been

preceded upon, shall be considered as postponed, till the next day on which the House shall sit, and shall stand first on the order of the day after the third reading of Bills and Addresses, and reading of Petitions.

#### XLVII.

§ 252. That all Accounts which shall in future be presented by any individual for work or labour done, or for articles furnished for the use of this House, shall be accompanied by satisfactory vouchers, specifying that the charges therein contained are the usual charges, and the commonly received prices for such work and labour, or for such articles furnished.

#### XLVIII.

§ 253. That the Sergeant-at-Arms, attending this House, shall be entitled to take and receive the following fees, viz :

For taking a Member of the House into custody,	-	£2	2	0
For taking a stranger into custody,		1	1	0
For every day in custody,		0	10	0
For bringing a Member of the House to the bar, to be reprimanded,		1	1	0
Bringing any other person to the bar, to be reprimanded,	-	0	10	0

#### XLIX.

§ 254. That no Rule adopted by this House shall be dispensed with, unless by consent of at least two-thirds of the whole of the Representatives of the Colony.



## L.

§ 255. That the Chairman of every Committee upon any Bill which has been amended in Committee, shall, before the third reading of such Bill, report to the House that he has examined such Bill, and that it has been correctly engrossed in accordance with the amendments made thereon.

## LI.

§ 256. That no report of a Select Committee be received without being signed by a majority of the Committee.

## LII.

§ 257. That on Wednesdays and Saturdays during the Session, notices of motion do take precedence of orders of the day.

## LIII.

## § 258. SOLICITORS' FEES.

	STERLING
Drafting Bill, - -	£2 2 0
Examining drafted Bill, -	1 1 0
Altering Bill during its various stages	1 1 0

## § 259. FEES OF CLERK AND ASSISTANT.

	Clerk's. STERLING	Assistant Clerk's. STERLING
For every Petition,	£0 6 8	£0 3 4
For every Notice,	0 6 8	0 3 4
For each reading,	0 6 8	0 3 4
For first committal,	0 6 8	0 3 4
For every subsequent committal	0 3 4	0 1 8
For engrossing, per folio of 90 words each, -	0 1 0	0 1 8
Sending Bill to H.M.L. Council,	0 6 8	0 3 4
On Governor's assent,	0 6 8	0 3 4

## LIV.

§ 260. That one half the foregoing fees on private Bills returned from Her Majesty's Legislative Council with amendments, shall be chargeable only on the respective stages through which the amendments shall pass.

## LV.

§ 261. That one half of the said Fees shall be chargeable on Bills originating with Her Majesty's Council, excepting therefrom the charge for engrossing and drafting.

## LVI.

§ 262. That all other Fees not included in the foregoing scale, shall be allowed and payable on the taxation of the Speaker.

## LVII.

§ 263. That a sum not exceeding Ten Pounds, sterling, be deposited with the Clerk of the Assembly, by the applicant for any private Bill, prior to its second reading, to liquidate such Fees, according to the stages through which the Bill may pass, and that the balance remaining thereafter, if any, in the Clerk's hands, shall be repaid to the depositor of such sum of money as aforesaid; and should the aforesaid sum of Ten Pounds be insufficient to discharge the Fees due on any private Bill, the applicant therefor shall pay the balance due to the Clerk of the Assembly immediately after the assent of His Excellency the Governor being given thereto.

